

VIRGIN ISLANDS  
CODE

ANNOTATED

*Title 14 through Title 16*

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## T I T L E F I F T E E N

# *Decedents' Estates and Fiduciary Relations*

### CHAPTER ANALYSIS

#### PART I. DECEDENTS' ESTATES

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#### PART I. DECEDENTS' ESTATES

### *Chapter 1. Wills*

#### § 2. Capacity to devise

##### ANNOTATIONS

2. **Construction.** Testatrix was not of unsound mind when she signed her third will while in hospital for treatment of advanced cervical cancer, which included administration of narcotic medication, where evidence showed that from 10:00 a.m. to 7:00 p.m. on day in question, testatrix did not have any complaints and was totally oriented and comfortable; she had opportunity to and did read the will before signing it at approximately 6:00 p.m., and three witnesses all testified that she was alert, recognized and joked with them, and understood that what she was reading and signing was her will. In re Estate of Savain, 39 V.I. 77, 1998 V.I. LEXIS 18 (Terr. Ct. St. T. and St. J. 1998).

#### § 13. Manner of execution of will

##### ANNOTATIONS

2. Particular instruments.
4. Valid will.

2. **Particular instruments.** Will notarized after the testatrix's death was properly executed, as it was subscribed by the testatrix at the end of the document; the required

signatures and addresses of the three attesting witnesses appeared below the signature of the testatrix as well; and the witnesses in their affidavits and deposition testimony explained that the testatrix in their presence declared the will to be her last will and testament and signed the will. In re Estate of Lecuyer, — V.I. —, 2008 V.I. LEXIS 17 (Dec. 12, 2008).

Notwithstanding the inconsistencies between the deposition testimony of the witnesses and that of a notary, the "cross-outs" and "insertions" made on the second page of a will had been satisfactorily explained by the witnesses, who stated that the notary had changed the date of the witnesses' signatures to reflect the date that they actually appeared before her and that she had mistakenly changed the number of pages, then corrected her mistake. In re Estate of Lecuyer, — V.I. —, 2008 V.I. LEXIS 17 (Dec. 12, 2008).

Will that was properly executed under 15 V.I.C. § 13 in 1983 was admitted to probate because the 2000 will proffered by contestants was notarized in the Virgin Islands by a citizen of Georgia, and under 3 V.I.C. § 772, the notary was required to be a citizen of the Virgin Islands. In re Estate of Smith, 48 V.I. 82, 2006 V.I. LEXIS 20 (Oct. 13, 2006).

Testatrix substantially complied with statutory request and publication requirements when she and three witnesses signed her first will, and will was therefore presumed to be valid. In re Estate of Savain, 39 V.I. 77, 1998 V.I. LEXIS 18 (Terr. Ct. St. T. and St. J. 1998).

Testatrix substantially complied with statutory request and publication requirements in regard to second witness to her will, where evidence indicated there was a meeting of the minds between witness and testatrix that document she was signing was her will and that witness was signing document at her request. In re Estate of Savain, 39 V.I. 77, 1998 V.I. LEXIS 18 (Terr. Ct. St. T. and St. J. 1998).

4. **Valid will.** A will is valid if it meets the testamentary formalities set out in this section. Failure to abide by these formalities renders a will invalid. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

#### § 14. Witnesses to will to write names and places of residence

##### ANNOTATIONS

1. **Particular instruments.** Will notarized after the testatrix's death was properly executed, as it was subscribed by the testatrix at the end of the document; the required signatures and addresses of the three attesting witnesses appeared below the signature of the testatrix as well; and the witnesses in their affidavits and deposition testimony explained that the testatrix in their presence declared the will to be her last will and testament and signed the will. In re Estate of Lecuyer, — V.I. —, 2008 V.I. LEXIS 17 (Dec. 12, 2008).

Notwithstanding the inconsistencies between the deposition testimony of the witnesses and that of a notary, the "cross-outs" and "insertions" made on the second page of a will had been satisfactorily explained by the witnesses, who stated that the notary had changed the date of the witnesses' signatures to reflect the date that they actually appeared before her and that she had mistakenly changed the number of pages, then corrected her mistake. In re Estate of Lecuyer, — V.I. —, 2008 V.I. LEXIS 17 (Dec. 12, 2008).

#### § 18. Child born after making of will

##### ANNOTATIONS

- 0.5. Purpose.
2. Inheritance.

**0.5. Purpose.** The purpose behind the Pretermitted Child Statute (this section) is to protect children inadvertently omitted from a will executed prior to their birth. Further, the spirit of this statute comprehends the prevention of unintentional disinheritance of children. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

The Pretermitted Child Statute was designed for the limited purpose of re-interpreting an otherwise valid will to the extent the will reflects the intestate share of a pretermitted child, who presumably was inadvertently left out of the will. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

**2. Inheritance.** The Pretermitted Child Statute is reserved only to omitted children born after the execution of a will. The statute no longer requires that a testator expressly disinherit children born before the execution of a will for effective disinheritance. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

The testator's lack of express language disinheriting two earlier children had no effect whatever upon the validity of the will. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

## § 26. Revocation and cancellation of written wills

### ANNOTATIONS

**2. Methods of revocation.** A will may be entirely revoked in two ways: revocation by physical act and revocation by a subsequent writing. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

## Chapter 3. Descent and Distribution

### SECTION ANALYSIS

#### 89. Payment of certain debts without administration

## § 84. Descent and distribution of estate of decedent

### ANNOTATIONS

- |                           |                               |
|---------------------------|-------------------------------|
| 1. Prior law.             | 7. Finding of paternity.      |
| 2. Illegitimate children. | 8. Stepchildren.              |
| 5. Construction.          | 9. Preferential distribution. |

**1. Prior law.** Although subdivision (13) of this section previously provided for the posthumous adjudication of paternity for inheritance, the Legislature, in its wisdom, subsequently amended the law to provide that such adjudication must be done during the lifetime of the putative father. In re Baby Girl Lake, 33 V.I. 66, 1995 V.I. LEXIS 33 (Terr. Ct. St. T. and St. J. 1995).

**2. Illegitimate children.** The repeal of 16 V.I.C. § 462 does not expressly provide that the rights of children previously legitimated by their father pursuant to that section are to be released or extinguished; therefore, it followed that if a child could satisfy the requirements of 16 V.I.C. § 462 that existed prior to the repeal of that statute, the child had to be deemed a legitimate child for all purposes including the intestate distribution provisions of 15 V.I.C. § 84. Tyler v. Armstrong, — V.I. —, 365 F.3d 204, 2004 U.S. App. LEXIS 7219 (3d Cir. 2004).

Pro se petitioner was denied appointment as successor administrator to an estate for lack

of standing as an heir-at-law because the required evidence under either Danish law, or Virgin Islands law, was not provided to prove the legitimization of the son through whose lineage priority was claimed. Sewer v. Sewer (In re Sewer), — V.I. —, 208 F. Supp. 2d 557, 2002 U.S. Dist. LEXIS 12496 (D.C.V.I. 2002).

**5. Construction.** The argument that the intestate distribution statute (this section) was intended in any way to create preferential classes among individuals who are decedent's next-of-kin was rejected. In re Estate of Garvey, 38 V.I. 68, 1997 V.I. LEXIS 22 (Terr. Ct. St. C. 1997).

**7. Finding of paternity.** As subdivision (13) specifically prohibits the posthumous adjudication of paternity, 15 V.I.C. § 84(13) must be read in the same light because, if the Court were to allow a petitioner to establish paternity under 16 V.I.C. § 301(a), there would be nothing to prevent her from filing a subsequent claim against the decedent's estate as she would be armed with the Court's decree adjudging the person to be a child and, thus, an heir of the decedent; the petitioner would, therefore, be able to accomplish through the back door what the Legislature specifically prohibited her from doing through the front. In re Baby Girl Lake, 33 V.I. 66, 1995 V.I. LEXIS 33 (Terr. Ct. St. T. and St. J. 1995).

**8. Stepchildren.** Because the Virgin Islands statutes of descent and distribution do not provide for intestacy succession by stepchildren, the stepchildren of the decedent had no entitlement as heirs-at-law to share in the estate of the decedent; the stepchildren could not be treated as natural children simply because they were designated by the decedent as "children" in his will. In re Estate of Desrochers, 36 V.I. 59, 1997 V.I. LEXIS 6 (Terr. Ct. St. T. and St. J. 1997).

**9. Preferential distribution.** This section only provides preferential distributions to a decedent's widow and children; it does not circumscribe the definition of "next-of-kin" nor govern the law regarding the appointment and qualifications of administrators. In re Estate of Garvey, 38 V.I. 68, 1997 V.I. LEXIS 22 (Terr. Ct. St. C. 1997).

**Cited.** Cited in In re Estate of Phillip, 41 V.I. 37, 1999 V.I. LEXIS 13 (Terr. Ct. St. C. 1999); In re Estate of Harris, 48 V.I. 166, 2006 V.I. LEXIS 29 (Dec. 17, 2006).

## § 87. Effect of divorce, abandonment, or refusal to support upon rights to distributive share

### ANNOTATIONS

**1. Construction.** Petitioner was barred from receiving a distributive share of decedent's estate, as she had affirmatively participated in procuring an invalid divorce from decedent. In re Estate of Pringle, 43 V.I. 15, 2000 V.I. LEXIS 12 (Terr. Ct. St. C. 2000).

## § 88. Simultaneous deaths

### ANNOTATIONS

1. Purpose.
2. Sufficient evidence.

**1. Purpose.** The simultaneous perishing of a testator and an exclusive beneficiary did not result in the revocation of testator's otherwise valid will. The purpose of this section is simple,

and two-fold. First, to place the burden of proof upon the contesting party to bring forth evidence of survivorship; second, to create a presumption of survivorship of a deceased spouse to provide for the orderly administration of an estate. The inclusion of a provision in testator's Will devising testator's entire estate to a contingent beneficiary, in the event that the beneficiary spouse predeceases testator, obviated the effects of a different disposition under this section. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

2. **Sufficient evidence.** The term "sufficient evidence," as provided in the Uniform Simultaneous Death Act, means that degree of certainty of evidence to establish priority of death or the fact of survivorship and is merely a preponderance of the evidence; it need not rise to the degree of certainty which would exclude every reasonable conclusion other than that reached by the trier of the facts. Further, the ultimate fact of survivorship does not have to be established to a certainty or beyond a reasonable doubt, and the evidence is sufficient if an inference can be drawn fairly and reasonably to the exclusion of all others. In re Estate of Walters, 38 V.I. 14, 1997 V.I. LEXIS 25 (Terr. Ct. St. C. 1997).

### § 89. Payment of certain debts without administration

\* \* \*

(b) Upon the death of a creditor, unless otherwise provided by a designation of a beneficiary which is then in effect, it shall be lawful for the debtor forthwith to pay to the surviving spouse of the decedent not more than one thousand dollars of the debt, upon an affidavit made by such spouse showing that such payment and all other payments received by such spouse under this subsection do not in the aggregate exceed \$5,000.

(c) Not less than thirty days after the death of a creditor, unless otherwise provided by a designation of a beneficiary which is then in effect, it shall be lawful for the debtor to pay not more than \$5,000 of the debt to—

\* \* \*

—Amended Apr. 7, 2004, No. 6662, § 3, Sess. L. 2004, p. 17; Mar. 5, 2005, No. 6730, § 24, Sess. L. 2005, p. 106.

#### HISTORY

**Amendments—2005.** Act 6730, § 24, substituted "\$5,000" for "\$2,000" in subsections (b) and (c).

—2004. Act 6662, § 3, substituted "\$2,000" for "1,000" in subsections (b) and (c).

## PART II. ADMINISTRATION OF ESTATES

### *Chapter 11. General Provisions*

### § 161. Jurisdiction of district court

#### ANNOTATIONS

**Cited.** Cited in In re Estate of Phillip, 41 V.I. 37, 1999 V.I. LEXIS 13 (Terr. Ct. St. C. 1999); Sewer v. Sewer (In re Sewer), — V.I. —, 208 F. Supp. 2d 557, 2002 U.S. Dist. LEXIS 12496 (D.C.V.I. 2002).

### *Chapter 13. Disposition of Estates Without Administration*

#### ANNOTATIONS

1. **Construction.** Estate of foreign decedent was required to institute a second administration in Virgin Islands, since decedent died without a will and thus his estate could not use Territorial Court [now Superior Court] Rule 210 to distribute his property in Territory, but was required to follow regular Virgin Islands probate procedures. In re Estate of DeChabert, 43 V.I. 27, 2000 V.I. LEXIS 14 (2000).

### *Chapter 15. Proof of Wills and Appointment of Executors and Administrators*

### § 235. Qualifications of executors and administrators

#### ANNOTATIONS

3. **Disqualified executors and administrators.** Virgin Islands law did not allow non-resident to be appointed administrator of an intestate estate in Territory, and thus court could not consider decedent's widow as a candidate for post of administrator. The parties were therefore given thirty days within which to agree to a candidate, failing which court would appoint member of Virgin Islands bar to administer estate. In re Estate of DeChabert, 43 V.I. 27, 2000 V.I. LEXIS 14 (2000).

Where a person is disqualified to hold the office of executor or administrator, that person may not nominate others to execute the office on his or her behalf. In re Estate of Garvey, 38 V.I. 68, 1997 V.I. LEXIS 22 (Terr. Ct. St. C. 1997).

Where a minor heir has priority in being appointed administrator under 15 V.I.C. Section 235, but is disqualified for want of emancipatory age, such heir may not nominate someone else without priority of appointment to administer the estate on his or her behalf. In re Estate of Garvey, 38 V.I. 68, 1997 V.I. LEXIS 22 (Terr. Ct. St. C. 1997).

### § 236. Priority in appointment of administrators

#### ANNOTATIONS

2. Notice to remaining heirs.
3. Disqualified administrator.

2. **Notice to remaining heirs.** Where petitioner, the decedent's son, had not served the remaining heirs with a copy of his petition for appointment as administrator, nor had he

provided individual waivers, it was reasonable to conclude that the remaining heirs had no knowledge of this action and, therefore, had no opportunity to file an answer or objection; thus, the petition had to be denied. Petitioner, however, was granted an additional period in which he could serve a copy of his petition or provide individual waivers. In re Estate of Ledee, 37 V.I. 37, 1997 V.I. LEXIS 15 (Terr. Ct. St. T. and St. J. 1997).

**3. Disqualified administrator.** Where a minor heir has priority in being appointed administrator under this section, but is disqualified for want of emancipatory age, such heir may not nominate someone else without priority of appointment to administer the estate on his or her behalf. In re Estate of Garvey, 38 V.I. 68, 1997 V.I. LEXIS 22 (Terr. Ct. St. C. 1997).

**Cited.** Cited in Sewer v. Sewer (In re Sewer), — V.I. —, 208 F. Supp. 2d 557, 2002 U.S. Dist. LEXIS 12496 (D.C.V.I. 2002).

### § 237. Priority of husband as administrator

#### ANNOTATIONS

2. Notice to remaining heirs.
3. Failure to file within 30 days of death.

**2. Notice to remaining heirs.** Where petitioner, the decedent's son, had not served the remaining heirs with a copy of his petition for appointment as administrator, nor had he provided individual waivers, it was reasonable to conclude that the remaining heirs had no knowledge of this action and, therefore, had no opportunity to file an answer or objection; thus, the petition had to be denied. Petitioner, however, was granted an additional period in which he could serve a copy of his petition or provide individual waivers. In re Estate of Ledee, 37 V.I. 37, 1997 V.I. LEXIS 15 (Terr. Ct. St. T. and St. J. 1997).

**3. Failure to file within 30 days of death.** Spouse of a decedent generally has priority over all others as a candidate for administrator to an estate; when a widow fails to file her claim within thirty days of her husband's death, however, she loses her priority and from that day forward is on equal footing with any other candidate. In re Estate of DeChabert, 43 V.I. 27, 2000 V.I. LEXIS 14 (2000).

### § 240. Revocation of letters

#### ANNOTATIONS

1. Generally.
2. Adverse interest or claim.

**1. Generally.** The Virgin Islands Probate Code prescribes stringent ethical standards of a person holding the trust office of executor or administrator. This stringency stems from the uncompromising statutory language of this section. In re Estate of Christensen, 38 V.I. 137, 1998 V.I. LEXIS 7 (Terr. Ct. St. C. 1998).

Determination of an executor's removal mandates a two-pronged inquiry: 1) whether the executor has in any way been unfaithful to or neglectful of his trust; and if so, 2) whether such unfaithfulness or neglect caused probable loss to the applicant petitioning removal. In re Estate of Christensen, 38 V.I. 137, 1998 V.I. LEXIS 7 (Terr. Ct. St. C. 1998).

**2. Adverse interest or claim.** Administrator of estate was required to be removed where he failed to file inventory of estate assets, acted improperly as controlling person of funeral home business which was estate's major asset, and violated the trust of his office with conflicts of interest, utilizing estate's assets for personal use, and commingling estate's cash assets with his own. In re Estate of Buggs, 39 V.I. 152, 1998 V.I. LEXIS 27 (1998).

## Chapter 19. Inventory and Appraisal

### § 312. Filing of inventory

#### ANNOTATIONS

**1. Failure to file.** Administrator of estate was required to be removed where he failed to file inventory of estate assets, acted improperly as controlling person of funeral home business which was estate's major asset, and violated the trust of his office with conflicts of interest, utilizing estate's assets for personal use, and commingling estate's cash assets with his own. In re Estate of Buggs, 39 V.I. 152, 1998 V.I. LEXIS 27 (1998).

### § 318. Concealing, secreting or disposing of property

#### ANNOTATIONS

**Cited.** Cited in In re Estate of Pitterson, 40 V.I. 13, 1998 V.I. LEXIS 29 (Terr. Ct. St. C. 1998).

## Chapter 23. Claims and Charges Against the Estate

### Subchapter II. Payment of Claims and Charges

#### SECTION ANALYSIS

#### 430. Real Property Taxes

### Subchapter I. Claims Against The Estate

### § 392. Time for presentment of claims

#### ANNOTATIONS

**2. Statute of limitations.** Local probate laws do not abrogate Fed. R. Civ. P. 8(c), although 15 V.I.C. §§ 392 and 395 do specifically mention that claims against an estate can be barred by the statute of limitations; 15 V.I.C. § 392 states that until the administration has been completed, a claim against the estate not barred by the statute of limitations may be presented, allowed, and paid; 15 V.I.C. § 395 states that no claim shall be allowed by the executor or administrator or the district court which is barred by the statute of limitations, therefore those provisions are not interpreted to mean that the statute of limitations defense cannot be waived on a claim against an estate. In re Estate of Sewer, 46 V.I. 260, 332 F. Supp. 2d 817, 2004 U.S. Dist. LEXIS 17119 (D.C.V.I. Aug. 23, 2004).

## § 395. Court determination of claims

## ANNOTATIONS

- |                           |                             |
|---------------------------|-----------------------------|
| 0.5. Construction.        | 8. Statutes of limitations. |
| 3. Testimony of claimant. | 9. Burden of proof.         |

**0.5. Construction.** To maintain action involving a claim rejected by an estate's executor or administrator; a claimant need only provide some form of competent or satisfactory evidence other than his or her own testimony. It is then the Court's duty to weigh evidence presented and determine whether or not to allow the claim. In re Estate of McConnell, 42 V.I. 43, 2000 V.I. LEXIS 2 (Terr. Ct. St. C. 2000).

**3. Testimony of claimant.** Court was unable to validate claim for compensation for services rendered to decedent prior to his death, where testimony came from claimant alone and was merely an educated guess as to value of alleged services. In re Estate of Pitterson, 40 V.I. 13, 1998 V.I. LEXIS 29 (Terr. Ct. St. C. 1998).

**8. Statutes of limitations.** Local probate laws do not abrogate Fed. R. Civ. P. 8(c), although 15 V.I.C. §§ 392 and 395 do specifically mention that claims against an estate can be barred by the statute of limitations; 15 V.I.C. § 392 states that until the administration has been completed, a claim against the estate not barred by the statute of limitations may be presented, allowed, and paid; 15 V.I.C. § 395 states that no claim shall be allowed by the executor or administrator or the district court which is barred by the statute of limitations, therefore those provisions are not interpreted to mean that the statute of limitations defense cannot be waived on a claim against an estate. In re Estate of Sewer, 46 V.I. 260, 332 F. Supp. 2d 817, 2004 U.S. Dist. LEXIS 17119 (D.C.V.I. Aug. 23, 2004).

Decedent's breach of agreement to compensate claimant for amounts paid by claimant on her behalf could have occurred no earlier than last date that funds were provided for her benefit, and thus claimant's action for reimbursement was timely filed. In re Estate of McConnell, 42 V.I. 43, 2000 V.I. LEXIS 2 (Terr. Ct. St. C. 2000).

**9. Burden of proof.** Burden in probate action arising from a rejected creditor's claim rests solely with claimant, who must provide Court with necessary evidence to prove her claim. In re Estate of McConnell, 42 V.I. 43, 2000 V.I. LEXIS 2 (Terr. Ct. St. C. 2000).

*Subchapter II. Payment of Claims and Charges*

## § 429. Mortgages and other charges on real property inherited or devised

## ANNOTATIONS

**1. Ongoing expenses.** Where decedent's will and testament directed that all gifts of property were to be "net" to their respective recipients, estate was required to pay maintenance fees, taxes, and other ongoing expenses of devised condominiums until close of probate, but would not be responsible for such charges accruing after probate was closed. In re Estate of Paralicci, 42 V.I. 71, 2000 V.I. LEXIS 5 (Terr. Ct. St. C. 2000).

## § 430. Real Property Taxes

Notwithstanding any other law to the contrary, no interest or penalty shall accrue on real property taxes during the time that the real property for which the taxes are owed is involved in probate proceedings.—Added May 29, 1998, No. 6235, § 2, Sess. L. 1998, p. 354.

*Chapter 29. Actions By or Against Executors, Administrators, Legatees, Heirs and Devisees**Subchapter I. Actions By or Against Executors and Administrators*

## § 606. Commencement of action against executor or administrator

## ANNOTATIONS

**1. Procedure.** Compliance with 15 V.I.C. § 606(b) is mandatory; therefore, where a creditor sued a debtor and an estate for foreclosure of two notes that were secured by certain real property without first presenting this claim to the estate administrator as required by subsection (b), the creditor's lawsuit was dismissed. *Oat v. Sewer Enters.*, 46 V.I. 286, — F. Supp. 2d —, 2004 U.S. Dist. LEXIS 17750 (D.C.V.I. Aug. 30, 2004).

## PART III. FIDUCIARY RELATIONS

*Chapter 51. Guardians and Wards**Subchapter I. General Provisions*

## ARTICLE B. MINORS

## § 821. Appointment of guardians for minors

## ANNOTATIONS

**1. Generally.** Guardianship is legally and fundamentally distinct from custody; it is created by statute and the standards for awarding guardianship are lesser than for depriving a mother of custody of her son. In re Guardianship of Lake, 46 V.I. 442, — F. Supp. 2d —, 2004 U.S. Dist. LEXIS 26384 (D.C.V.I. Dec. 30, 2004).

## § 825. Duties of guardian

## ANNOTATIONS

**1. Generally.** An executor must, at a minimum, act in a manner consistent with the duties of a guardian as mandated by this section. In re Estate of Christensen, 38 V.I. 137, 1998 V.I. LEXIS 7 (Terr. Ct. St. C. 1998).



*Chapter 61. Uniform Gifts to Minors Act*

## SECTION ANALYSIS

1241-1250. [Repealed.]

§§ 1241-1250. Repealed. Aug. 2, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

*Chapter 62. Virgin Islands Uniform Transfers to Minors Act*

## SECTION ANALYSIS

- 1251a. Short title
- 1251b. Definitions
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- 1251d. Nomination of custodian
- 1251e. Transfer by gift or exercise of power of appointment
- 1251f. Transfer authorized by will or trust
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- 1251h. Transfer by obligor
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- 1251k. Single custodianship
- 1251l. Validity and effect of transfer
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- 1251t. Accounting by and determination of liability of custodian
- 1251u. Termination of custodianship
- 1251v. Applicability
- 1251w. Effect on existing custodianship
- 1251x. Uniformity of application and construction

## § 1251a. Short title

This Chapter may be cited as the "Virgin Islands Uniform Transfer to Minors Act."—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

## HISTORY

**Effective date.** Act Aug. 2, 2001, No. 6423, § 3 provides "This Act shall take effect thirty days after its enactment." This Act was passed by the Legislature on July 19, 2001.

## § 1251b. Definitions

In this Chapter:

(a) "Adult" means an individual who has attained the age of 18 years.  
 (b) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(c) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.

(d) "Court" means the Superior Court of the Virgin Islands.

(e) "Custodial property" means (i) any interest in property transferred to a custodian under this chapter, and (ii) the income from and proceeds of that interest in property.

(f) "Custodian" means a person so designated under section 1251j; or a successor or substitute custodian designated under section 1251w.

(g) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under the territorial or federal law.

(h) "Guardian" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(i) "Legal representative" means an individual's personal representative or guardian.

(j) "Member of the minor's family" means the minor's parents, stepparents, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(k) "Minor" means an individual who has not attained the age of 18 years.

(l) "Person" means an individual, corporation, organization, or other legal entity.

(m) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

(n) "State" includes the United States Virgin Islands, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(o) "Transfer" means a transaction that creates custodial property under section 1251m of this chapter.

(p) "Transferor" means a person who makes a transfer under this chapter.

(q) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251c. Scope

(a) This chapter applies to a transfer that refers to this chapter in the designation under section 1251p, subsection (a), of this chapter by which the transfer is made if at the time to the transfer, the transferor, the minor, or the custodian is a resident of this Territory or the custodial property is located in this Territory. The custodianship so created remains subject to this chapter despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from the United States Virgin Islands.

(b) A person designated as custodian under this chapter is subject to personal jurisdiction in this Territory with respect to any matter relating to the custodianship.

(c) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act, of another jurisdiction is governed by the law of the designated jurisdiction and may be executed and is enforceable in this Territory if at the time of the transfer, the transferor, the minor or the custodian is a resident of the designated jurisdiction or the custodial property is located in the designated jurisdiction.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251d. Nomination of custodian

(a) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act." The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payer, issuer,

or other obligor of the contractual rights.

(b) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under section 1251m, subsection (a) of this chapter.

(c) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under section 1251j of this chapter. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to section 1251j of this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251e. Transfer by gift or exercise of power of appointment

A person may make a transfer by irrevocable gift, tangible or intangible to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to section 1251j of this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251f. Transfer authorized by will or trust

(a) A personal representative or trustee may make an irrevocable transfer pursuant to section 1251j of this chapter to a custodian for the benefit of a minor as authorized in the governing will or trust.

(b) If the testator or settlor has nominated a custodian under section 1251d of this chapter to receive the custodial property, the transfer must be made to that person.

(c) If the testator or settlor has not nominated a custodian under section 1251d, of this chapter, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 1251j, subsection (a) of this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251g. Other transfer by fiduciary

(a) Subject to subsection (c), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to section 1251j of this chapter, in the absence of a will or under a will or trust that does not contain



an authorization to do so.

(b) Subject to subsection (c) of this section, a guardian may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to section 1251j of this chapter.

(c) A transfer under subsection (a) or (b) of this section may be made only if:

(1) the personal representative, trustee, or guardian considers the transfer to be in the best interest of the minor;

(2) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument, and

(3) the transfer is authorized by the court if it exceeds \$10,000 in value.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251h. Transfer by obligor

(1) Subject to subsections (b) and (c) of this section, a person not subject to section 1251f or 1251g of this chapter who holds property of or owes a liquidated debt to a minor not having a guardian may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to section 1251j of this chapter.

(2) If a person having the right to do so under section 1251d of this chapter has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(3) If no custodian has been nominated under section 1251d of this chapter, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds \$10,000 in value.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251i. Receipt for custodial property

A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251j. Manner of creating custodial property and effecting transfer; designation of initial custodian; control

(a) Custodial property is created and a transfer is made whenever:

(1) an uncertificated security or a certificated security in registered form is either:

(A) registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act"; or

(B) delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (b);

(2) money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred, to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act";

(3) the ownership of a life or endowment insurance policy or annuity contract is either registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act";

(4) an irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act";

(5) an interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act";

(6) a certificate of title issued by a department or agency of a state or territory of the United States which evidences title to tangible personal property is either:

(A) issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act";

(B) delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act"; or

(7) an interest in any property not described in paragraphs (1) through (6) of this subsection is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (b) of this Section.

(b) An instrument in the following form satisfies the requirements of paragraph (1), subparagraph (B) and paragraph (7) of subsection (a) of this section:

**“TRANSFER UNDER THE VIRGIN ISLANDS UNIFORM  
TRANSFERS TO MINORS ACT”**

I, \_\_\_\_\_ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to \_\_\_\_\_ (name of custodian), as custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act, the following: \_\_\_\_\_ (insert a description of the custodial property sufficient to identify it).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Virgin Islands Uniform Transfers to Minors Act.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Custodian)

(c) A transferor shall place the custodian in control of the custodial property as soon as practicable.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251k. Single custodianship**

A transfer may be made only for one minor, and only one person may be the custodian. All custodial property held under this chapter by the same custodian for the benefit of the same minor constitutes a single custodianship.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251l. Validity and effect of transfer**

(a) The validity of a transfer made in a manner prescribed in this chapter is not affected by:

(1) failure of the transferor to comply with section 1251j, subsection (c) of this chapter concerning possession and control;

(2) designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under section 1251j, subsection (a) of this chapter; or

(3) death or incapacity of a person nominated under section 1251d of this chapter or designated under section 1251j of this chapter as custodian or the disclaimer of the office by that person.

(b) A transfer made pursuant to section 1251j is irrevocable, and the custodial property is indefensibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this chapter, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(c) By making a transfer, the transferor incorporates in the disposition all the provisions of this chapter and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251m. Care of custodial property**

(a) A custodian shall:

(1) take control of custodial property;

(2) register or record title to custodial property if appropriate; and

(3) collect, hold, manage, invest, and reinvest custodial property.

(b) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(c) A custodian may invest in or pay premiums on life insurance or endowment policies on:

(1) the life of the minor only if the minor or the minor's estate is the sole beneficiary, or;

(2) the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(d) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is

so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for \_\_\_\_\_ (name of minor) under the Virgin Islands Uniform Transfers to Minors Act."

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor has attained the age of 14 years.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251n. Powers of custodian

(a) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(b) This section does not relieve a custodian from liability for breach of section 1251m of this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251o. Use of custodial property

(a) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to (1) the duty or ability of the custodian personally or of any other person to support the minor, or (2) any other income or property of the minor which may be applicable or available for that purpose.

(b) On petition of an interested person or the minor if the minor has attained the age of 14 years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(c) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251p. Custodian's expenses, compensation, and bond

(a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for one who is a transferor under section 1251e of this

chapter, a custodian has a non-cumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(c) Except as provided in section 1251s, subsection (f) of this Chapter, a custodian need not give a bond.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251q. Exemption of third person from liability

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

- (1) the validity of the purported custodian's designation;
- (2) the propriety of, or the authority under this Chapter for, any act of the purported custodian;
- (3) the validity or propriety under this Chapter of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or
- (4) the propriety of the application of any property of the minor delivered to the purported custodian.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251r. Liability to third persons

(a) A claim based on (1) a contract entered into by a custodian acting in a custodial capacity, (2) an obligation arising from the ownership or control of custodial property, or (3) a tort committed during the custodianship, may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor.

(b) A custodian is not personally liable:

- (1) on a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or
- (2) for an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(c) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251s. Renunciation, resignation, death, or removal of custodian; designation of successor custodian**

(a) A person nominated under section 1251d of this chapter or designated under section 1251j of this chapter as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination may nominate a substitute custodian under section 1251d of this chapter; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under section 1251n, subsection (a) of this chapter. The custodian so designated has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under section 1251e of this chapter as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(d) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of 14 years, the minor may designate as successor custodian, in the manner prescribed in subsection (b) of this section, an adult member of the minor's family, a guardian of the minor, or a trust company. If the minor has not attained the age of 14 years or fails to act within 60 days after the ineligibility, death, or incapacity, the guardian of the minor becomes successor custodian. If the minor has no guardian or the guardian declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who declines to serve under subsection (a) of this section or resigns under subsection (c) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the

guardian of the minor, or the minor if the minor has attained the age of 14 years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under Section 4 or to require the custodian to give appropriate bond.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251t. Accounting by and determination of liability of custodian**

(a) A minor who has attained the age of 14 years, the minor's guardian of the person or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court (1) for an accounting by the custodian or the custodian's legal representative; or (2) for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under section 1251r to which the minor or the minor's legal representative was a party.

(b) A successor custodian may petition the court for an accounting by the predecessor custodian.

(c) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(d) If a custodian is removed under section 1251s, subsection (f) of this chapter, the Court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251u. Termination of custodianship**

The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) the minor's attainment of 18 years of age with respect to custodial property transferred under section 1251d, 1251e, 1251f or 1251g; or

(2) the minor's death.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

**§ 1251v. Applicability**

This chapter applies to a transfer within the scope of section 1251c made after its effective date if:

(1) the transfer purports to have been made under title 16, chapter 61, Virgin Islands Code (the Virgin Islands Uniform Gifts to Minors Act); or

(2) the instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts Act to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this chapter is necessary to validate the transfer.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### § 1251w. Effect on existing custodianship

(a) Any transfer of custodial property as now defined in this chapter made before the effective date of this chapter is validated notwithstanding that there was no specific authority in the Virgin Islands Uniform Gifts to Minors Act for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(b) This chapter applies to all transfers made before the effective date of the chapter in a manner and form prescribed in the Virgin Islands Uniform Gifts to Minors Act, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this chapter.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

#### HISTORY

**Editor's note.** Act Aug. 2, 2001, No. 6423, § 2 provides: "To the extent that the provisions of section 1 of this Act, by virtue of title 15, chapter 62, section 1251w, subsection (b), Virgin Islands Code, as added by this Act does not apply to transfers made in a manner prescribed in title 15, chapter 61, Virgin Islands Code, or to the powers, duties, and immunities conferred by transfers in that manner upon custodians and persons dealing with custodians, the repeal of title 15, chapter 61, Virgin Islands Code, shall not affect those transfers or those powers, duties, and immunities."

#### § 1251x. Uniformity of application and construction

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among jurisdictions enacting it.—Added Aug. 18, 2001, No. 6423, § 1, Sess. L. 2001, p. 111.

## TITLE SIXTEEN

### *Domestic Relations*

#### CHAPTER ANALYSIS

1. Marriage
2. Remedies for Domestic Violence
3. Divorce and Annulment
4. Uniform Child-Custody Jurisdiction and Enforcement Act
11. Establishing Paternity
13. Support of Relations
15. [Repealed.]
17. Grandparents' Visitation Rights

#### *Chapter 1. Marriage*

#### Subchapter II. Solemnization, Proof and Effect of Marriages

#### SECTION ANALYSIS

39. Fees

#### *Subchapter I. Marriages*

#### § 2. Voidable marriages

#### ANNOTATIONS

**2. Impotency.** Where plaintiff's physician did not state that plaintiff did not obtain any erection but only that he did not obtain a full erection in 1991, the issue of whether plaintiff obtained any erection in 1991 was a genuine issue of material fact which precludes plaintiff from obtaining an annulment on the grounds that his impotency prevented him from entering into the marriage. *S.B. v. J.B.*, 34 V.I. 61, 1996 V.I. LEXIS 8 (Terr. Ct. St. C. 1996).

Even if plaintiff was impotent throughout his entire marriage he would not be entitled to an annulment under Virgin Islands law since he had knowledge that he was impotent at the time he entered into marriage. *S.B. v. J.B.*, 34 V.I. 61, 1996 V.I. LEXIS 8 (Terr. Ct. St. C. 1996).

#### § 3. Institution of proceeding to declare marriage null

#### ANNOTATIONS

1. Construction.
2. Purpose.
3. Impotency.

1. **Construction.** "Fully capable of contracting a marriage" goes toward one's mental state