

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 419

Short Title: Revival of Will Provisions.

(Public)

Sponsors: Representative Kennedy.

Referred to: Judiciary I.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT RELATING TO REVIVAL OF WILL PROVISIONS REVOKED BY  
DIVORCE, ANNULMENT, OR EXECUTION OF A NEW WILL AS  
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 31-5.4 reads as rewritten:

**"§ 31-5.4. Revocation by divorce or annulment; revival.**

Dissolution of marriage by absolute divorce or annulment after making a will does not revoke the will of any testator but, unless otherwise specifically provided in the will, it revokes all provisions in the will in favor of the ~~testator's former spouse so divorced,~~ including, but not by way of limitation, ~~the appointment of such spouse as executor or executrix~~ any provision conferring a general or special power of appointment on the former spouse and any appointment of the former spouse as executor, trustee, conservator, or guardian. If provisions are revoked solely by this section, they are revived by testator's remarriage to the former spouse."

Sec. 2. G.S. 31-5.8 reads as rewritten:

**"§ 31-5.8. Revival of revoked will.**

(a) No will or any part thereof, ~~which that shall be have been~~ in any manner revoked can, except as provided in subsection (b) of this section or in G.S. 31-5.4, can be revived otherwise than by a reexecution thereof, or by the execution of another will in which the revoked will or part thereof is incorporated by reference.

(b) If a subsequent will that, had it remained effective at death would have revoked a prior will in whole or in part, is thereafter revoked by acts under G.S. 31-5.1, such prior will is revoked in whole or in part unless it is evident from the circumstances

1 of the revocation of the subsequent will or from testator's contemporaneous or  
2 subsequent declarations that the testator intended such prior will to take effect as  
3 executed."

4           Sec. 3. This act is effective upon ratification and applies to the will of any  
5 person dying on or after that date.