

HOUSE BILL 185

N2
HB 50/25 – JUD

(PRE–FILED)

6lr1297
CF 6lr1278

By: Delegate Cardin

Requested: October 22, 2025

Introduced and read first time: January 14, 2026

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Spousal Lifetime Access Trusts**

3 FOR the purpose of adding to the circumstances under which an individual who creates a
4 trust for the benefit of the individual's spouse may not be considered the settlor of
5 the trust with regard to the individual's interest in the trust; and generally relating
6 to spousal lifetime access trusts.

7 BY repealing and reenacting, with amendments,

8 Article – Estates and Trusts

9 Section 14.5–1003

10 Annotated Code of Maryland

11 (2022 Replacement Volume and 2025 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Estates and Trusts**

15 14.5–1003.

16 (A) IN THIS SECTION, “SPOUSE” MEANS THE INDIVIDUAL TO WHOM AN
17 INDIVIDUAL WHO CREATED A TRUST WAS MARRIED AT THE TIME THE TRUST WAS
18 CREATED.

19 [(a)] (B) An individual who creates a trust may not be considered the settlor of
20 that trust with regard to the individual's interest in the trust if:

21 (1) That interest is the authority of the trustee under the trust instrument
22 or any other provision of law to pay or reimburse the individual for any tax on trust income

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or trust principal that is payable by the individual under the law imposing that tax; [or]

2 (2) All of the following apply:

3 (i) The individual creates or has created the trust for the benefit of
4 the individual's spouse;

5 (ii) The trust is treated as qualified terminable interest property
6 under § 2523(f) of the Internal Revenue Code of 1986; and

7 (iii) The individual's interest in the trust income, trust principal, or
8 both follows the termination of the spouse's prior interest in the trust; OR

9 **(3) ALL OF THE FOLLOWING APPLY:**

10 (I) **THE INDIVIDUAL CREATES OR HAS CREATED THE TRUST:**

11 1. **FOR THE BENEFIT OF THE INDIVIDUAL'S SPOUSE**
12 **DURING THE LIFETIME OF THE SPOUSE; OR**

13 2. **FOR THE BENEFIT OF THE INDIVIDUAL'S SPOUSE AND**
14 **ANY OTHER BENEFICIARY DURING THE LIFETIME OF THE SPOUSE;**

15 (II) **THE TRUST DOES NOT MEET THE REQUIREMENTS OF ITEM**
16 **(2) OF THIS SUBSECTION;**

17 (III) **THE TRUST IS IRREVOCABLE; AND**

18 (IV) **AFTER THE DEATH OF THE INDIVIDUAL'S SPOUSE, THE**
19 **INDIVIDUAL IS A BENEFICIARY OF THE TRUST THROUGH THE EXERCISE OF A POWER**
20 **OF APPOINTMENT BY THE INDIVIDUAL'S SPOUSE OR BY ANOTHER INDIVIDUAL WHO**
21 **DID NOT CREATE THE TRUST.**

22 [(b)] (C) A creditor of an individual described in subsection [(a)] (B) of this
23 section may not attach, exercise, reach, or otherwise compel distribution of:

24 (1) Any principal or income of the trust;

25 (2) Any principal or income of any other trust to the extent that the
26 property held in the other trust is attributable to a trust described in subsection [(a)(2)]
27 **(B)(2) OR (3)** of this section;

28 (3) The individual's interest in the trust; or

29 (4) The individual's interest in any other trust to the extent that the

1 property held in the other trust is attributable to a trust described in subsection [(a)(2)]
2 **(B)(2) OR (3)** of this section.

3 **[(c)] (D)** This section may not be construed to affect any State law with respect
4 to a fraudulent transfer by an individual to a trustee.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2026.