**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4559**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bernstein, Rose, Clyburn, Mitchell, Yow and Pope

Companion/Similar bill(s): 845, 850, 869

Document Path: LC-0189HA24.docx

Introduced in the House on January 9, 2024

Introduced in the Senate on March 27, 2024

Currently residing in the Senate Committee on **Judiciary**

Summary: Probate Representative

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/16/2023 House Prefiled

11/16/2023 House Referred to Committee on **Judiciary**

1/9/2024 House Introduced and read first time ([House Journal‑page 82](h:\hj\20240109.docx))

1/9/2024 House Referred to Committee on **Judiciary** ([House Journal‑page 82](h:\hj\20240109.docx))

3/20/2024 House Member(s) request name added as sponsor: Mitchell, Yow

3/20/2024 House Committee report: Favorable **Judiciary** ([House Journal‑page 12](h:\hj\20240320.docx))

3/21/2024 Scrivener's error corrected

3/26/2024 House Member(s) request name added as sponsor: Pope

3/26/2024 House Read second time ([House Journal‑page 35](h:\hj\20240326.docx))

3/26/2024 House Roll call Yeas-115 Nays-0 ([House Journal‑page 35](h:\hj\20240326.docx))

3/27/2024 House Read third time and sent to Senate ([House Journal‑page 15](h:\hj\20240327.docx))

3/27/2024 Senate Introduced and read first time ([Senate Journal‑page 5](h:\sj\20240327.docx))

3/27/2024 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](h:\sj\20240327.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4559&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[11/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4559_20231116.docx)

[03/20/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4559_20240320.docx)

[03/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4559_20240321.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

March 20, 2024

H. 4559

Introduced by Reps. Bernstein, Rose, Clyburn, Mitchell and Yow

S. Printed 03/20/24--H. [SEC 3/21/2024 11:24 AM]

Read the first time January 09, 2024

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The committee on House Judiciary

To whom was referred a Bill (H. 4559) to amend the South Carolina Code of Laws by amending Section 62-3-108, relating to probate, testacy, and appointment proceedings and the ultimate time limit, so, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass:

W. NEWTON for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill allows the estate of an individual, regardless of the date of death, to maintain appointment proceedings for the sole purpose of allowing a claim to be made pursuant to Section 804 of the “Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxics Act of 2022.” Currently, estate proceedings may not commence more than ten years after the decedent’s death.

Based on responses on similar legislation, DVA anticipates that this bill will have no fiscal impact on the agency as the court proceedings do not relate to the state level DVA. DVA would pull the final decision data off the federal database if it was a part of a service member’s record.

Local Expenditure

Based on responses on similar legislation, Judicial reports that implementation of the bill may result in an increase in probate court caseloads, which can be managed using existing staff and appropriations. Therefore, the bill will result in no local expenditure impact.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 62-3-108, RELATING TO PROBATE, TESTACY, AND APPOINTMENT PROCEEDINGS AND THE ULTIMATE TIME LIMIT, SO AS TO ALLOW APPROPRIATE APPOINTMENT PROCEEDINGS REGARDING AN INDIVIDUAL'S ESTATE FOR THE SOLE PURPOSE OF ALLOWING A CLAIM TO BE MADE PURSUANT TO THE “HONORING OUR PACT ACT OF 2022” REGARDLESS OF THE DATE OF THAT INDIVIDUAL’S DEATH.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 62-3-108 of the S.C. Code is amended to read:

Section 62-3-108. (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator’s domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than ten years after the decedent’s death.

(2) Notwithstanding any other provision of this section:

(a) if a previous proceeding was dismissed because of doubt about the fact of the decedent’s death, appropriate probate, appointment, or testacy proceedings may be maintained at any time upon a finding that the decedent’s death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding and if that previous proceeding was commenced within the time limits of this section;

(b) appropriate probate, appointment, or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the protected person; and

(c) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful may be commenced within eight months from informal probate or one year from the decedent's death, whichever is later; and

(d) appropriate appointment proceedings may be maintained in relation to the estate of an individual for the sole purpose of allowing a claim to be made pursuant to Section 804 of the “Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022” also known as the “Honoring our PACT Act of 2022,” Public Law 117-168, as amended, regardless of the date of that individual’s death.

(B) If no informal probate and no formal testacy proceedings are commenced within ten years after the decedent's death, and no proceedings under subsection (A)(2)(b) are commenced within the applicable period of three years time, it is incontestable that the decedent left no will and that the decedent's estate passes by intestate succession. These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In proceedings commenced under subsection (A)(2)(a) or (A)(2)(b), the date on which a testacy or appointment proceeding is properly commenced is deemed to be the date of the decedent's death for purposes of other limitations provisions of this Code which relate to the date of death.

SECTION 2. This act takes effect upon approval by the Governor.

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